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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

11 CR 1083 (TPG)

5 JABAR GILLIAM,

6 Defendant.

7 -----x

8 New York, N.Y.
9 September 19, 2012
2:30 p.m.

10 Before:

11 HON. THOMAS P. GRIESA

12 District Judge
13 and a Jury

14
15 APPEARANCES

16 PREET BHARARA

17 United States Attorney for the
Southern District of New York

18 BY: NATALIE LAMARQUE

KRISTY J. GREENBERG

19 Assistant United States Attorneys

20 JOEL STEIN

21 Attorney for Defendant

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(Jury selection)

(A jury of 12 and 2 alternates was impanelled and sworn)

THE COURT: Let me give you some preliminary instructions.

I should have thanked the people who were excused, but I thank the rest of you back there for your help this morning, your help and your patience. Thank you very much.

(Prospective jurors exit)

THE COURT: The order of the case is as follows.

The government attorney will deliver an opening statement, obviously, saying what the government's hopes to prove. After that, the defense attorney has the opportunity to give an opening statement but is not required to do so. This is consistent with the all important law that the sole burden of proof is on the government. The defense does not have any burden of proof.

But after the opening statements are given, the government's evidence comes in. And I haven't heard the evidence or seen the evidence, but it will, I am sure, take the form of testimony, obviously, and maybe some exhibits. We will see about that.

The government conducts direct examination. After the government's direct examination of a witness is finished, the defense lawyer has the opportunity to conduct

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1 cross-examination, and that will be the way each witness is
2 handled.

3 When the government has completed its proof, the
4 government does what we say, resting; the government rests.

5 After that, the defense has the right to put on
6 evidence but is not required to do so. It can happen that the
7 defense case comes in largely through cross-examining the
8 government witnesses, but actually what the government case is
9 and the defense case is, you will observe for the first time
10 just as I will observe.

11 After all of the evidence is in, the lawyers will
12 deliver their summations, their closing arguments to you. And
13 after that, I will give you instructions on the law, mainly
14 consisting of a description of the issues which are you to
15 concern yourselves with. And then you go into your
16 deliberations and you reach the decisions that are requested of
17 you on the issues requested.

18 The schedule each day is to start at 10 o'clock in the
19 mornings and, with a short break, to go to 1, and then from
20 2:15 until 4:30 with a short break. There may be some
21 variation of that, and I will let you know that in advance.

22 If there is anybody who needs to leave earlier than
23 4:30 on next Tuesday, I would like to know of that somewhat in
24 advance, if possible.

25 It is very important that the jury, that you preserve

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1 your integrity. And what I am referring to is having no
2 conversation or even exchange of greetings with other people in
3 the courtroom. We don't have an elevator system which means
4 that the jurors will take one elevator and the lawyers take
5 another elevator. You may encounter each other in the
6 building, but the lawyers know that they are not to have even
7 the merest greeting with the jurors, and you should know that
8 too. You won't think somebody is rude to you or that you are
9 rude to them.

10 When you are deliberating at the end of the case, you
11 will be discussing the evidence. That discussion is the way
12 you reach your decision. It is a very good idea to not discuss
13 the case until you are deliberating. It can happen that
14 people, when they have heard only part of the evidence, they
15 get into discussions and there can be a little discord or
16 freezing of people's views or something like that. So it is
17 better to recognize that your discussion of the case is a very,
18 very solemn and important thing and it really is a good idea to
19 leave that entirely to the time when you are deliberating.
20 Then you have all the tools to work with and you are doing your
21 job.

22 I think that's all I have to say, and we will start
23 with the opening statement.

24 MS. GREENBERG: This is a case about a man who brought
25 a 16-year-old girl from Maryland to New York to sell her for

1 sex. This man, the defendant, Jabar Gilliam, brought the minor
2 victim to New York, told her to walk the streets in the dead of
3 winter for hours and sold her for sex like a piece of property.
4 He used fear and threats to maintain his control over her to
5 get what he wanted -- money. He took all the money that she
6 earned and gave her nothing because, to him, she was just a
7 commodity, someone to be bought, sold and used.

8 My name is Kristy Greenberg and I represent the United
9 States in this case.

10 With me at counsel table is my colleague Natalie
11 Lamarque, FBI Special Agent Brian Conolly and Paralegal
12 Specialist Szuwei Co.

13 I am going to explain to you today what the evidence
14 will show in this case, what the charges are against the
15 defendant and how the government will prove its case.

16 Here is what the evidence will show.

17 From November of 2011 until his arrest on December 2,
18 2011, the defendant used various means to maintain control over
19 the minor victim. You will learn that the minor victim's name
20 is Jasmin. The defendant hit her. He had sex with her against
21 her will. He refused to feed her or give her any money for
22 food. He called her vile names, and he made her call him
23 "daddy." He gave her a set of handwritten rules laying down
24 the law, rules that she had to follow to work for him as a
25 prostitute.

1 But, ladies and gentlemen, that is not how he treated
2 her in the beginning. In the beginning he took an interest in
3 her. He gave her attention. He spent countless hours learning
4 about her. What did he learn? Well, the defendant learned
5 that the minor victim was only 16 years old. Ladies and
6 gentlemen, the defendant was 29.

7 He learned that her father was killed.

8 THE COURT: Keep your voice up.

9 MS. GREENBERG: Yes, your Honor.

10 He learned that her father was killed.

11 He learned that her mother had a drug problem and had
12 been a prostitute and had lost custody of the minor victim when
13 she was younger.

14 He learned that she was a runaway.

15 He also learned that she had worked as a prostitute.

16 In this honeymoon stage, the defendant made the minor
17 victim believe that he wanted a relationship with her. The
18 defendant told Jasmin that he thought she was pretty. He told
19 her that he wanted her to meet his family. He wanted her to
20 meet his mother and his brother. He told the minor victim that
21 he would help reunite her with her mother. The defendant
22 preyed on the minor victim and on her vulnerabilities.

23 And, ladies and gentlemen, the defendant's deception
24 worked. You will hear that the defendant asked the victim to
25 work for him as a prostitute in Maryland and, initially, she

1 agreed.

2 You will also learn that she initially agreed to go
3 with him to New York and work for him there, but it was all
4 just a bait and switch. As soon as the victim let her guard
5 down, the defendant's compliments stopped and the defendant's
6 abuse began.

7 As a result of the defendant's abuse, the victim was
8 scared. She wanted out.

9 You will learn that the minor victim mustered the
10 courage to tell the defendant that she no longer wanted to go
11 to New York with him and work for him as a prostitute.

12 How did the defendant react to that? He threatened to
13 prostitute her younger sister if she would not go with him.
14 Because she was afraid for herself and because she was afraid
15 for her younger sister, on December 1, 2011, the victim took
16 the bus with the defendant from Maryland to New York to work
17 for him as a prostitute.

18 The evidence will show that the defendant called all
19 the shots. He made all of the travel arrangements and he paid
20 for the victim's bus ticket.

21 Once they got to New York, though, things only got
22 worse for the victim. With the defendant standing just paces
23 behind her, afraid to disobey him, the victim walked the
24 streets at night, selling herself for sex. With the defendant
25 standing right outside the door to the bedroom of the apartment

1 that he had secured in the Bronx, the victim continued to have
2 sex with more men for money.

3 Ladies and gentlemen, the defendant took every penny.

4 The defendant also gave her drugs.

5 His family that the defendant told the victim that he
6 wanted her to meet, his mother and his brother, he enlisted his
7 mother and his brother to help him prostitute her.

8 As for the reunion that the victim was looking forward
9 to with her own mother, well, the defendant tried to recruit
10 the victim's mother to work for him as a prostitute as well.

11 Now, as I mentioned earlier, the victim's mother had a
12 drug problem and had been a prostitute and lost custody of the
13 victim because of it, and the defendant knew that.

14 And so when the victim found out that the defendant
15 was talking to her mother about prostituting her,
16 understandably, the victim was upset and confronted the
17 defendant about it. Well, what did the defendant do? He
18 choked her and he punched her just for daring to question him.

19 The defendant had succeeded in isolating the victim.
20 She didn't know anyone in New York. She didn't have any money.
21 She didn't even know where she was.

22 On December 2, 2011, after prostituting the victim for
23 two days, the defendant was caught red-handed. Law enforcement
24 used GPS equipment to track the defendant's cell phone which
25 led them straight to the defendant who was walking with the

1 victim back to the apartment, the very same apartment that he
2 had prostituted her at earlier that day. The defendant saw
3 police officers and he tried to run, but he was caught and
4 arrested for his crimes.

5 Now, as the judge mentioned earlier today, the
6 defendant has been charged with two counts: First, with sex
7 trafficking; second, with transporting a minor for
8 prostitution. The government will prove that the defendant
9 committed both of these crimes beyond a reasonable doubt.

10 Now, I'm going to talk to you about what we will prove
11 in our case.

12 First, you will hear testimony. You will hear from
13 the arresting officer. He will tell you about the
14 investigation to find Jasmin and how the defendant tried to run
15 before he was placed under arrest.

16 You will also hear from FBI Special Agent Conolly who
17 will tell you about what law enforcement found on the defendant
18 at the time of his arrest.

19 You will learn that the defendant also spoke to
20 Special Agent Conolly and gave him a statement. In that
21 statement, the defendant claimed that he met the victim the
22 night before his arrest. He claimed he didn't even know her
23 name. Only later did he admit that he took the bus with the
24 victim from Maryland to New York, that he gave her money for
25 her bus ticket and that they stayed together in the same

1 apartment in New York.

2 You will meet the victim in this case, Jasmin.

3 She will tell you about herself and her past.

4 She will tell you that she has had a tough life before
5 this ordeal and after.

6 She will tell you that she has been a victim of
7 molestation, of parental abuse and neglect.

8 She will tell you that for much of her life, she has
9 been in and out of foster homes.

10 She will tell you that as a child she was diagnosed
11 with bipolar disorder.

12 She will tell you about the things that the defendant
13 did to her, that she did not want to go to New York with him,
14 but that she was afraid to disobey him.

15 In addition to testimony, you will see physical
16 evidence. You will see what the defendant had on him and in
17 his backpack when they found him with the victim.

18 Let's talk about some of that physical evidence.

19 They found on him a bus ticket to New York.

20 They found on him two handwritten notebooks. The
21 first notebook contained the defendant's rules for prostitutes.

22 Ladies and gentlemen, you are going to see that these
23 are the very same rules that he gave to the minor victim when
24 they first met.

25 The other notebook listed his personal code of how to

1 manipulate and control. You will see the words in his
2 notebook.

3 Here are just a few examples of what you will see in
4 this evidence: "Begin to pull thy away from that which thy
5 loves most and, most importantly, that which loves her. This
6 act will kill her spirit until she feels it's worthless."

7 Another example of what you will see in the notebook:
8 "They are driven by their insecurities. Find them out and use
9 them against them."

10 You are also going to see that there were condoms and
11 lubricants in the defendant's backpack.

12 You are also going to see the defendant's cell phone
13 and what was contained inside it. Inside the defendant's cell
14 phone, he had provocative photos of the minor victim, photos
15 that the defendant was going to use to create an online
16 advertisement for the victim's sexual services.

17 You are also going to see text messages about
18 prostituting the minor victim, prostituting the minor victim's
19 mother and prostituting other women.

20 You are even going to see in black and white a text
21 message where the defendant is explicitly told that the minor
22 victim is only 16 years old.

23 That is how the government will prove its case to you.

24 In conclusion, when you ask yourself whether the
25 defendant transported a 16-year-old girl across state lines to

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Opening - Ms. Greenberg

1 prostitute her or whether he used force against her to get her
2 to prostitute for him, pay close attention to the testimony and
3 compare it to the physical evidence like the notebooks, like
4 his text messages, like the photographs.

5 It will be clear to you what happened here.

6 Ladies and gentlemen, if you pay close attention to
7 the evidence, listen to the judge's instructions on the law and
8 use your common sense, you will find the defendant, Jabar
9 Gilliam, guilty on all counts.

10 MR. STEIN: Thank you, Judge.

11 Judge, is it OK if I stand at the rail and not at the
12 podium?

13 THE COURT: Anywhere, as long as we can hear you.

14 MR. STEIN: You will hear me.

15 Good afternoon, ladies and gentlemen, your Honor and
16 members of the prosecution.

17 In case it is not obvious --

18 THE COURT: Just a tiny bit louder so I can hear you.

19 MR. STEIN: In case it is not obvious at this point,
20 this is an ugly case. You are going to hear about a lot of
21 sordid things that are extremely unpleasant, but that's the
22 reality, the nature of this case.

23 Now, before I get into a discussion of the evidence,
24 let me re-introduce myself. My name is Joel Stein. I
25 represent Jabar Gilliam.

1 And for everybody in this case, jurors who are hearing
2 this the first time as well as the lawyers, this is a difficult
3 case because of its nature, however, we are not here or you
4 should not be here to make moral judgments, no matter how
5 repugnant or reprehensible or worthy of moral condemnation the
6 conduct you are going to hear about.

7 Now, Ms. Greenberg's admirable opening statement, of
8 course, is not evidence in the case. That's her statement as
9 to what the government intends to prove and it is, of course,
10 up to you ladies and gentlemen to decide whether that has been
11 proved. But, as normal human beings, you are going to have an
12 instinctive gut reaction to what Ms. Greenberg has told you the
13 government intends to prove. This gut reaction may be one of
14 complete revulsion which is, based upon what you have heard,
15 understandable. But moving beyond the reactions that you are
16 going to have to this case, emotional reactions, it is very
17 explicit what you are going to hear about.

18 It is your job as jurors in this case to objectively
19 evaluate the credible evidence in this case, the lack of
20 credible evidence, apply the judge's instructions on the law
21 which Judge Griesa will give you at the end of the case, and
22 within the framework of the charges and the language in the
23 indictment that the judge will instruct you on -- indeed, I
24 believe at some point you will get a copy of the indictment.

25 This is not CSI. That's fiction. This is not Law and

1 Order. This is reality, and it is not pretty.

2 You have heard Ms. Greenberg tell you about Jasmin,
3 the 16-year-old girl.

4 THE COURT: I really think we are not going to hear
5 you if you don't stand at the microphone, please.

6 MR. STEIN: I will try to speak louder, Judge.

7 Undoubtedly, you are going to feel very sympathetic to
8 her, indeed, based on what you have heard, that would be
9 perfectly understandable. As the judge will instruct you later
10 on during the course of instructions, as unnatural as it may
11 seem at the beginning, sympathy cannot enter into your
12 discussions in evaluating the evidence.

13 There are some things in this case that are not in
14 dispute.

15 Number 1, Jasmin, the young girl who was 16 years old
16 at the time, that is not going to be in dispute. There is
17 going to be, I think, a birth certificate that the government
18 is going to offer into evidence.

19 Also not in dispute is the fact that Mr. Gilliam
20 accompanied Jasmin to New York from Maryland.

21 Also not in dispute is the fact that my client was in
22 fact having discussions with various adult women about working
23 for him as prostitutes. There are text message that you will
24 see that are quite clear. There are photographs that you will
25 see that are quite clear. He is not here on trial for that

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Opening - Mr. Stein

1 conduct. And, indeed, one of the women in this case, as Ms.
2 Greenberg told you, is, tragically, Jasmin's mother herself.

3 So those thing are not in dispute.

4 What is in dispute is a lot.

5 What is in dispute is the government's argument to you
6 that my client used force, coercion, threats or anything like
7 that.

8 What is in dispute here -- sounds like a legal word --
9 is whether my client caused Jasmin to engage in prostitution.

10 What is in dispute is whether or not he compelled her
11 to act as a prostitute, as tragic as her doing that may be.

12 What is in dispute is why Jasmin came with Mr. Gilliam
13 from Maryland where she was in foster care and where my client
14 resided at the time, why they came to New York.

15 What is also in dispute are the circumstances
16 surrounding Mr. Gilliam's arrest. You are going to hear
17 testimony quite soon from a New York City detective who
18 arrested my client and in the process of doing so, there was a
19 struggle. You will hear about that. More importantly are the
20 circumstances under which this struggle took place.

21 Now, the evidence is going to show, as Ms. Greenberg
22 already told you, that Jasmin was suffering from emotional
23 issues. She has been diagnosed for quite sometime as manic
24 depressive. Some of you may be familiar with that term. She
25 has mood swings from depression to high excitement. She was on

1 medication.

2 What is important in this case, beyond Jasmin's
3 testimony is what evidence there is to support what she is
4 saying because, I think that you will find, based on her
5 explanations of what happened, that some of it may be troubling
6 to you. You are going to find that a lot of what she said is
7 completely unsupported by the evidence or, indeed, even
8 contradicted by it. For example, Ms. Greenberg has told you
9 that my client, in effect, assaulted or beat Jasmin. She was
10 examined at St. Barnabas Hospital the night that my client was
11 arrested which was approximately 6:30 or so in the evening on
12 December 2, after he had, according to Jasmin, beaten her. You
13 are going to find that in the very thorough physical
14 examination that took place of Jasmin at St. Barnabas Hospital,
15 there is not one sign whatsoever of any injury of any kind --
16 bruises, cuts -- not a sign of an injury.

17 Ms. Greenberg has told you that my client forced
18 Jasmin to take various drugs. She had a drug screen conducted
19 while she was at St. Barnabas Hospital. Her urine was examined
20 and it was completely clean of drugs.

21 Ms. Greenberg has told you that my client took all of
22 the money that Jasmin earned prostituting herself. There is no
23 money.

24 You are going to find that Jasmin lied about a number
25 of things, falsified them -- not only based on what she has

1 told law enforcement agents, but what she told representatives
2 at St. Barnabas Hospital when she was examined later the same
3 evening that my client was arrested, as I said on December 2.
4 I won't dispute that she was with him at the time. They took
5 her to St. Barnabas Hospital after she was interviewed, and the
6 physical evidence or lack of physical evidence is quite
7 revealing.

8 That is some of what you will hear about in this case,
9 ladies and gentlemen, but it is not just isolated segments of
10 evidence. It is the whole picture, what if anything supports
11 what Jasmin says happened, what if anything contradicts
12 directly by indisputable scientific physical evidence what she
13 says happened. And when you evaluate the entire picture, you
14 will be in a position to be able to decide, based on Judge
15 Griesa's instructions, whether or not the government has proved
16 its case beyond a reasonable doubt.

17 Thank you.

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19 (Continued on next page)
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Ryan - direct

1 THE COURT: All right. The government's evidence.

2 MS. GREENBERG: The government calls NYPD Detective
3 Sean Ryan.

4 THE DEPUTY CLERK: Please step all the way into the
5 witness stand and remain standing.

6 SEAN RYAN,

7 called as a witness by the government,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. GREENBERG:

11 Q. Good afternoon, Detective Ryan.

12 A. Good afternoon.

13 Q. Where do you work?

14 A. I work for the New York City Police Department.

15 Q. Can you speak into the microphone?

16 A. Sure.

17 I work for the New York City Police Department.

18 Q. In what division of the New York city Police Department?

19 A. The vice enforcement division.

20 Q. Is the New York City Police Department sometimes
21 abbreviated as NYPD?

22 A. Yes, it is.

23 Q. How long have you worked for the NYPD?

24 A. For 17 years.

25 Q. What is your current title with the NYPD?

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Ryan - direct

1 A. Detective.

2 Q. How long have you been a detective?

3 A. For 11 years.

4 Q. What are your duties and responsibilities in your current
5 division as detective?

6 A. In the current unit that I work in, we handle cases
7 involving the sexual exploitation of children including
8 under-age prostitution and cases of that nature.

9 Q. What were your duties in December of 2011?

10 A. Same as I just described.

11 Q. How long have you been assigned to your current unit?

12 A. The current unit that I am assigned to is called the vice
13 major case unit which was created in 2006, and I have been a
14 member since then.

15 Q. To what unit were you assigned prior to vice major case?

16 A. I was assigned to the vice enforcement sexual exploitation
17 of children squad, which was -- I did the same duties there,
18 but they created the major case unit and expanded the unit and
19 that's when I became a member of that unit.

20 Q. How long were you in that unit?

21 A. For three years.

22 Q. And you did have the same duties and responsibilities
23 there?

24 A. Yes, I did.

25 Q. To what unit were you assigned prior to the sexual

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Ryan - direct

1 exploitation of children unit?

2 A. Manhattan South vice.

3 Q. How long were you there?

4 A. For a year and a half.

5 Q. To what unit were you assigned prior to that?

6 A. I was assigned to the 17th Precinct patrol duties.

7 Q. How long were you there?

8 A. Four or five years.

9 Q. What did you do prior to that?

10 A. New York Police Academy for nine months.

11 Q. How many arrests would you say that you have made
12 approximately?

13 A. Over 200.

14 Q. In what area?

15 A. Mainly in the vice enforcement area.

16 Q. Now, I want to direct your attention to December 2, 2011.

17 Were you working that day?

18 A. Yes, I was.

19 Q. What happened on the afternoon of December 2?

20 A. I was instructed by my supervisor that we were --

21 MR. STEIN: Objection, Judge, to what his supervisor
22 told him.

23 THE COURT: Overruled.

24 He is talking about his instruction.

25 I assume you are going to tell us what you were

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Ryan - direct

1 instructed to do, correct?

2 THE WITNESS: That's correct.

3 THE COURT: Go ahead.

4 A. Myself and other members of my field team were instructed
5 by our supervisor that he was contacted by Maryland state
6 police in regards to a missing female minor who they had
7 information that she was in the Bronx.

8 MR. STEIN: Objection.

9 THE COURT: I thought that you were going to tell
10 about instruction not information you got. What were you
11 instructed to do?

12 THE WITNESS: To go to the Bronx to look for a missing
13 female.

14 THE COURT: All right. Go ahead. Next question.

15 BY MS. GREENBERG:

16 Q. Did NYPD receive any assistance from law enforcement
17 agencies?

18 A. Yes, we did.

19 Q. Is that unusual?

20 A. No, it is not --

21 MR. STEIN: Objection.

22 THE COURT: Overruled.

23 Q. What assistance did NYPD receive from other agencies?

24 A. We received assistance from the Maryland state police as
25 far as they were tracking a cell phone --

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Ryan - direct

1 MR. STEIN: Objection.

2 THE COURT: Please.

3 MR. STEIN: Judge, he is testifying to what some other
4 law enforcement agency was doing.

5 THE COURT: No, he really is not. That's what is
6 coming, I believe.

7 A. Maryland state police was assisting us by tracking a cell
8 phone number that the missing had used.

9 MR. STEIN: Objection. Move to strike.

10 THE COURT: Motion denied.

11 Go ahead.

12 I would go over that again because the objection -- I
13 didn't really get the testimony and maybe the jury didn't
14 either.

15 MS. GREENBERG: So let me re-ask my question.

16 Q. What assistance did NYPD receive from Maryland state
17 police?

18 A. Maryland state police had received a cell phone number that
19 the missing girl had used to call her mother. Using technology
20 to track the phone, they were tracking the phone and giving us
21 locations of a general area of where the phone was.

22 Q. Did you have any information as to whose phone was being
23 tracked?

24 MR. STEIN: Objection, Judge.

25 THE COURT: Overruled.

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Ryan - direct

1 A. I did not know whose phone it was.

2 Q. You mentioned you testified earlier that the phone had been
3 used to call the victim's mother?

4 A. That's correct.

5 Q. Was the victim's mother cooperating with law enforcement?

6 A. Yes, she was.

7 Q. Other than the victim, the missing child that you were
8 looking for, did you have any information about anyone else in
9 connection with this investigation?

10 A. Yes. She was believed to be with a male --

11 MR. STEIN: Objection, Judge.

12 THE COURT: We do have a hearsay rule. I want to
13 allow this witness to testify about what the police did, and if
14 they tracked a phone in some way, that is what they did.

15 We can save ourselves a lot of objections, if you do
16 not ask the witness information he got from other sources. He
17 can testify about what he did, but not what he was informed
18 from other courses.

19 MS. GREENBERG: Yes, your Honor.

20 Q. In the course of your investigation, who were you looking
21 for?

22 MR. STEIN: Objection, Judge.

23 THE COURT: Overruled.

24 A. We were looking for a missing minor from Maryland as well
25 as an individual she would have been with.

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Ryan - direct

1 Q. What if any physical description of the missing girl did
2 you have?

3 A. I was supplied with photographs of the missing girl.

4 Q. I would like to show you what has been marked for
5 identification as Government Exhibits 162A and 162B.

6 MS. GREENBERG: May I approach?

7 THE COURT: Sure.

8 Q. Detective Ryan, do you recognize these photographs?

9 A. Yes, I do.

10 Q. What are these photographs of?

11 A. They are photographs of the missing girl that we were
12 looking for on that day.

13 Q. Are they a fair and accurate representation of the minor?

14 A. Yes, they are.

15 MS. GREENBERG: The government offers Exhibits 162A
16 and B into evidence.

17 THE COURT: Received.

18 (Government Exhibits 162A, 162B received in evidence)

19 MR. STEIN: Judge, it is 162A and 162B?

20 THE COURT: I have down in my notes as 162A and 162B
21 as being offered and received.

22 Q. Detective Ryan, was there an arrest on December 2, 2011?

23 A. Yes, there was.

24 Q. Do you see in the courtroom today the individual who was
25 arrested?

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Ryan - direct

1 A. Yes, I do.

2 Q. Could you identify him by describing an article of clothing
3 that he is wearing?

4 A. It is the gentleman in the middle of the courtroom, not
5 wearing a tie, wearing a dark jacket and white shirt.

6 MS. GREENBERG: Your Honor, let the record reflect
7 that Detective Ryan has identified the defendant?

8 THE COURT: Right.

9 Q. You testified earlier about learning about a potential
10 location for the victim. What was that location?

11 A. 1140 Jackson Avenue.

12 Q. When did you learn that information?

13 A. During the initial time that my supervisor was telling us
14 that we were going up to the Bronx.

15 Q. And upon learning of the possible location of the minor
16 victim, what did you do?

17 A. Myself and another detective got into a vehicle and other
18 detectives and members of my field team got into separate
19 vehicles and we went up to the Bronx to look for the girl.

20 Q. Did you find the victim at 1140 Jackson Avenue?

21 A. No, we did not.

22 Q. After you left 1140 Jackson Avenue, what did you do next?

23 A. Myself and the other female detective that I was with drove
24 around the neighborhood. We were getting updates from my
25 supervisor as to the whereabouts of the tracking of the phone.

C9JUGIL1

Ryan - direct

1 And we drove around looking for people, for the girl and the
2 guy she may have been with.

3 Q. From the paging of the phone did you get any information on
4 a possible location?

5 A. Yes, we did.

6 Q. What information did you get?

7 A. It was in the area of 1140 Jackson Avenue.

8 Q. So what did you do?

9 A. We drove around looking for her and anyone she would have
10 been with. At a point we did find her walking down the street
11 with the defendant.

12 Q. What did you observe them doing?

13 A. They walked past our vehicle. I transmitted over the
14 police radio that we did spot them. We made a quick U-turn.
15 As we were making the U-turn, I saw them enter an apartment
16 building. I put over the radio they were entering the
17 apartment building.

18 And myself and my partner for the day did follow them
19 into the building. We did a quick search of the hallways of
20 the first floor. We did not see them. We proceeded to the
21 second floor. We did a quick search of the second floor. We
22 did not see them. When we got to the third floor, they were
23 down at the end of the long hallway where I identified myself
24 as a police officer and told them not to move and they complied
25 at that time.

C9JUGIL1

Ryan - direct

1 Q. When you say they complied, can you explain what exactly
2 happened?

3 A. Again, I identified myself as a police officer, told them
4 not to move. I told the defendant, put his hand up on the
5 wall, which he put his hands up on an apartment door which was
6 front of him.

7 My partner took the female and took her down the
8 hallway to get her away from the defendant.

9 The defendant had his hands on the door. I told him
10 not to move. He said, I'm cool. I'm cool. I said, I don't
11 know who you are. As I reached into my back to get my
12 handcuffs. He made a quick movement towards the immediate left
13 which was an apartment door, and he was able to gain entrance
14 into that apartment door by his movements.

15 I grabbed him by the shoulder of the jacket as he was
16 going into the apartment. The jacket literally tore from the
17 seams or just tore and started to shred as he was falling into
18 the apartment. He was able to push the door shut.

19 And at that time, my foot got lodged underneath the
20 door and the door slammed shut. I was unable to move my foot
21 from underneath the door.

22 At that time I looked up and there were other members
23 of my field team who were running down the hallway, and I was
24 yelling to them that my foot was stuck, I can't get out, my
25 foot's stuck. So after several attempts, one of my teammates

C9JUGIL1

Ryan - direct

1 was able to get the door open by using his shoulder to ram the
2 door open. At that time I was able to get my foot free and the
3 members entered the apartment.

4 Q. Detective Ryan, let's just take what you said step by step.

5 You testified that you were approached the defendant?

6 A. That is correct.

7 Q. You testified that your partner took the victim elsewhere
8 down the hallway?

9 A. Correct.

10 Q. What immediately happened when you approached the
11 defendant?

12 A. He had his hands up on the doorway which was directly in
13 front, as you entered the hallway was a doorway. And there was
14 another doorway immediately to the left. He had his hands up
15 on the door. I told him not to move. He said, I'm cool. I'm
16 cool. I said, well, I don't know you.

17 (Continued on next page)

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C9JTGIL2

Ryan - direct

1 BY MS. GREENBERG:

2 Q. Sorry, let me stop you right there. So you said that he
3 had his hands up against the wall. How close was the next
4 doorway to where he had his hands up?

5 A. He had his hands on the doorway and the next door was
6 immediately to our left.

7 Q. And were both his hands up on the door?

8 A. Yes.

9 Q. And what were you doing at that time?

10 A. I had my hand on his back and I was reaching to get my
11 handcuffs.

12 Q. As you were reaching to get your handcuffs, what did the
13 defendant do next?

14 A. He spun to his left and lunged into that immediate door to
15 our left.

16 Q. And when you say "lunged," can you describe what, if any,
17 force the defendant used as he was moving?

18 A. He had enough force to back off the door and get into the
19 next doorway.

20 Q. Was the next doorway open?

21 A. I'm not sure.

22 Q. Did the defendant -- was the defendant able to get inside
23 the next doorway?

24 A. Yes, he was.

25 Q. Now you testified that you grabbed onto the defendant?

C9JTGIL2

Ryan - direct

1 A. I grabbed onto him and grabbed his jacket.

2 Q. And what happened when you grabbed his jacket?

3 A. The jacket ripped within my hand. As he was falling into
4 the door, the jacket was tearing off of him.

5 Q. I would like to show you what has been marked as Government
6 Exhibits 157, 158 and 159.

7 MS. GREENBERG: May I approach?

8 THE COURT: Yes.

9 Q. Detective Ryan, do you recognize these photographs?

10 A. Yes, I do.

11 Q. What are they?

12 A. They are photographs of the defendant's jacket that he was
13 wearing at the time of his arrest that ripped while he was
14 falling into the apartment.

15 Q. Who took these photographs?

16 A. I did.

17 Q. Why did you take them?

18 MR. STEIN: Objection to why he took them.

19 MS. GREENBERG: Withdrawn.

20 Q. When did you take these photographs?

21 A. After the arrest back at the precinct.

22 Q. Are these photographs a fair and accurate representation of
23 the jacket that was shredded?

24 A. Yes, they are.

25 MS. GREENBERG: The government offers Government

C9JTGIL2

Ryan - direct

1 Exhibits 157, 158 and 159 into evidence.

2 THE COURT: Received.

3 (Government's Exhibits 157, 158 and 159 received in
4 evidence)

5 Q. Now after you grabbed onto the defendant's jacket, did he
6 use force?

7 A. He was able to force the door shut, and it was -- my foot
8 was in the door and my foot was lodged underneath the door, so
9 there was force used to shut the door, yes.

10 Q. Did he use any force in getting away from you?

11 A. Enough to push away and get into the door to his left, yes.

12 Q. And what happened to you at that point?

13 A. After I was able to -- after my teammates freed me from the
14 door, I stayed out in the hallway, and a few minutes later
15 myself, the detective I was working with and another female
16 detective, took the victim back to the precinct. At the
17 precinct I told my supervisor and the arresting officer what
18 had happened, as far as me seeing them and how it came to be
19 that I was hurt underneath the door, and then shortly after
20 that I went to the hospital to be treated for my injuries.

21 Q. So let's back up. Let's look at the Government
22 Exhibit 158. Can you describe to us what we're looking at?

23 A. It is a picture of -- the style of the jacket I believe to
24 be a Carhartt. It's not a Carhartt, but that style of work
25 jacket, and that's the jacket on the bench within the precinct

C9JTGIL2

Ryan - direct

1 of it all ripped up from the incident.

2 Q. And where exactly was it shredded?

3 A. The back of it from the top shoulder and then all the way
4 down the back.

5 Q. Let's look at Government Exhibit 159. Can you describe
6 this photo?

7 A. That is a photo of the same jacket, and that's the jacket
8 open and you can see the inside tag. So that's the shoulder
9 area where it literally ripped from.

10 Q. And let's look at Government Exhibit 160 -- sorry, 157.

11 A. That is another photo of the jacket.

12 Q. Can you describe, as you can see in the photograph, how far
13 down the jacket was shredded?

14 THE COURT: We're spending a lot of time on a shredded
15 jacket. Let's get past these things quickly.

16 MS. GREENBERG: Yes, your Honor.

17 Q. Now you mentioned that your foot had been wedged underneath
18 the door. How did your foot come to be wedged underneath the
19 door?

20 THE COURT: Look, we don't have to have a detail about
21 every -- if we go on at this pace we'll be here a long, long
22 time. We don't have to have all this detail. His foot was
23 wedged in the door, that's all we need to know. He's told
24 about it about three times now. We have to move along on these
25 things.

C9JTGIL2

Ryan - direct

1 MS. GREENBERG: Yes. One follow-up question.

2 Q. You testified earlier that the door slammed on your foot.
3 Who slammed the door on your foot?

4 A. The defendant did.

5 Q. How long was your foot underneath the door?

6 MR. STEIN: Objection, asked and answered.

7 THE COURT: Really, please, he's gone through this at
8 least a couple of times. Let get past the foot in the door and
9 get to something else.

10 Q. After your foot was freed from the door, what happened
11 next?

12 A. Like I said earlier, myself and two female detectives
13 transported the victim.

14 THE COURT: Yes, as he said earlier. Please don't
15 have this repetition, and let's get through these facts without
16 a lot of repetition and excessive detail.

17 Q. Detective Ryan, were you injured as a result?

18 A. Yes, I was.

19 Q. What was your injury?

20 A. I had a torn meniscus in my knee and a foot injury.

21 Q. After your involvement in finding the defendant and the
22 victim together, did have you any other involvement in this
23 case?

24 A. No, the immediate two weeks after that I was out of work
25 completely, line duty, sick with my injuries.

C9JTGIL2

Ryan - cross

1 MS. GREENBERG: Nothing further.

2 THE COURT: Cross-examine.

3 CROSS-EXAMINATION

4 BY MR. STEIN:

5 Q. Detective, can I assume from what you've said that your
6 total involvement in this case was looking for the young girl
7 and participating in the arrest of my client?

8 A. That's correct.

9 Q. And that took place in the scope of would you say a couple
10 of hours or less?

11 A. Probably a couple of hours is accurate.

12 Q. Now there came a time when you went to the vicinity of 1140
13 Jackson Avenue?

14 A. Right.

15 Q. And that was for the purposes of looking for the young girl
16 at that point and whoever was with her, correct?

17 A. Yes.

18 Q. Did you go into the building?

19 A. Yes, I did.

20 Q. Where did you go in the building?

21 A. I went to the top floor of the building.

22 Q. And the information that led to you go to that particular
23 building, 1140 Jackson Avenue, did that information include an
24 apartment?

25 A. I was just told 1140 Jackson Avenue.

C9JTGIL2

Ryan - cross

1 Q. You said you went to the top floor, right?

2 A. The building was broken up into single-room occupancy, so
3 there was a main area and then there was other areas with other
4 rooms that were rented out in the building. So myself and
5 members of the team went throughout the whole building. We
6 were invited in and went throughout the whole building and
7 spoke to the people inside. So I went to the top floor, but
8 there were other members of the team within the building.

9 Q. So the only location in the building you went to was on the
10 top floor?

11 A. Well, and the entry area into the building.

12 Q. But the other floors you didn't do any investigation or
13 looking around?

14 A. No, I just walked through them.

15 Q. So on the top floor did you speak to any of the tenants who
16 lived in that building?

17 A. Yes.

18 Q. And did any of those people include an Albert Batts,
19 B-A-T-T-S?

20 A. I'm not sure of the names of who I spoke to, I don't have
21 it.

22 Q. Did you go into any of the apartments on the top floor?

23 A. Not inside, no.

24 Q. So when you had the occasion to speak to anybody who was on
25 the top floor, was that basically either in the hallway or the

C9JTGIL2

Ryan - cross

1 doorway?

2 A. At the doorway, yes.

3 Q. So you didn't have the occasion to look around inside any
4 of the apartments?

5 A. The rooms were tiny. Like I said, they were rooms, not
6 apartments.

7 Q. Forget the word "apartment," you didn't have occasion to
8 look around inside any of those rooms?

9 A. No, not the gentlemen that I spoke to.

10 Q. In any of the rooms on the top floor?

11 A. No.

12 Q. So how long were you there, approximately?

13 A. We were -- I was in and out of the top floor rather
14 quickly, and then I was standing out front with members of my
15 field team as the other members were conducting their
16 interviews inside.

17 Q. So when you say you were on the top floor quickly, are we
18 talking about minutes or seconds?

19 A. No, probably five or ten minutes.

20 Q. And then there came a time when you went downstairs?

21 A. Right, I'm standing on the front stoop.

22 Q. And then at some point you saw -- you were cruising around
23 the neighborhood?

24 A. Right.

25 Q. And was it light out or dark out at this point?

C9JTGIL2

Ryan - cross

1 A. It was getting dark.

2 Q. And this was on the late afternoon, early evening of
3 December 2nd?

4 A. Yes.

5 Q. Around 6:00, 6:30 p.m.?

6 A. That's fair to say.

7 Q. And there came a time where you saw the young woman whose
8 picture you had, correct?

9 A. Right.

10 Q. And you saw her with my client, correct?

11 A. That is correct.

12 Q. What were they doing?

13 A. They were walking down the street.

14 Q. And you were in a car when you saw them?

15 A. Yes.

16 Q. And was this an unmarked car or a patrol car?

17 A. Unmarked car.

18 Q. And they were on the same side of the street you were or
19 were they on the opposite side?

20 A. We were going -- they were on the opposite side when I
21 initially saw them and then we made a U-turn.

22 Q. You made a U-turn in order to go around the same side?

23 A. Correct.

24 Q. When you made the U-turn, had you pulled away from where
25 they were?

C9JTGIL2

Ryan - cross

1 A. Yeah, they passed by us. We made a U-turn. As we made the
2 U-turn, I still had them in my sights and saw them enter the
3 building.

4 Q. Were you driving?

5 A. No, I was a passenger.

6 Q. Who was the driver?

7 A. Detective Rose Muckenthaler.

8 Q. When you made this U-turn, did you make the U-turn at a
9 particularly high rate of speed or made it at a normal speed?

10 A. No, normal speed.

11 Q. Were there other pedestrians on the street?

12 A. Not where we made the U-turn, no.

13 Q. Before you made the U-turn when you saw my client and you
14 saw the young girl, did you seem to make eye contact with
15 either one of them?

16 A. No.

17 Q. So you made the U-turn, and then what's the next thing you
18 did after you made the U-turn?

19 A. I transmitted over the radio that they were entering the
20 apartment building, and myself and Detective Muckenthaler
21 exited the vehicle and went in after them.

22 Q. Is that the apartment building where Mr. Gilliam was later
23 arrested, as you testified?

24 A. Yes.

25 Q. And what's the address of that building?

C9JTGIL2

Ryan - cross

1 A. I don't have it off the top of my head.

2 Q. So if you heard the address, would you remember it?

3 A. Probably.

4 Q. 747 East 168th Street.

5 A. That sounds about right, yes.

6 Q. Did you see the young girl and my client enter the
7 building?

8 A. Yes.

9 Q. And when you were doing that, were you still seated in your
10 car?

11 A. Yes.

12 Q. When you saw them go into the building, that's when you got
13 out of your car and approached the building?

14 A. Right, as we pulled up to the building.

15 Q. Did you have a siren on or lights or anything like that?

16 A. No.

17 Q. There came a time after you entered the building that you
18 went up to what floor and saw the young girl and Mr. Gilliam?

19 A. The third floor.

20 Q. And how many other police officers were with you?

21 A. At that time just one, my partner I was with that day.

22 Q. Detective Muckenthaler?

23 A. Yes.

24 Q. So you started to walk down the hallway because the area
25 where they were was away from the elevator; is that correct?

C9JTGIL2

Ryan - cross

- 1 A. We walked up the stairs.
- 2 Q. They took the elevator?
- 3 A. I don't know how they got to the third floor.
- 4 Q. You got up and there saw them there?
- 5 A. Right.
- 6 Q. And the first thing that happened when you got up there is
- 7 you said words to the effect of "Don't move"?
- 8 A. Police, don't move.
- 9 Q. Police, don't move?
- 10 A. Right.
- 11 Q. And did you have -- you said you were a detective. Did you
- 12 have your shield out?
- 13 A. Yes.
- 14 Q. Where was your shield?
- 15 A. Around my neck.
- 16 Q. So someone could easily see that you looked like a New York
- 17 police officer?
- 18 A. Right.
- 19 Q. And you were in plain clothes, correct?
- 20 A. That's correct.
- 21 Q. And your partner was in plain clothes?
- 22 A. That's correct.
- 23 Q. Do you know if her shield was out also?
- 24 A. I'm not sure.
- 25 Q. Did you have your firearm out?

C9JTGIL2

Ryan - cross

1 A. No, I did not.

2 Q. Do you know if your partner did?

3 A. I don't believe she did.

4 THE COURT: Let's take a short break, please. We'll
5 try to have short breaks in the middle of the morning and in
6 the middle of the afternoon.

7 (Recess taken)

8 (Continued on next page)

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C9JTGIL2

Ryan - cross

1 (At side bar)

2 THE COURT: John Beale is not here. What did John
3 report to you and you want to report to the lawyers?

4 LAW CLERK: So John reported to me that two of the
5 jurors discovered they are cousins I guess back in the jury
6 room. They didn't notice it.

7 MR. STEIN: Cousins to each other?

8 LAW CLERK: Yes, cousins to each other, I imagine.
9 And one of them is acquainted with an AUSA who came in to
10 observe while things were proceeding earlier. I don't know
11 what follows from that, but they reported it to John.

12 Here's John.

13 THE COURT: Who came in from your office?

14 MS. LAMARQUE: A number -- she was giving her opening.
15 Your Honor. A number of AUSAs came in, I would say about ten
16 or twelve or so.

17 THE COURT: I don't think there's anything to be done.
18 Any suggestion?

19 MR. STEIN: Well, the only suggestion is -- I don't
20 know if there's anything to think about the two jurors who are
21 cousins.

22 THE COURT: What is there to think about?

23 MR. STEIN: I said I don't know whether there is
24 anything to think about.

25 THE COURT: I can't think of anything.

C9JTGIL2

Ryan - cross

1 MR. STEIN: And as to the juror who knows another
2 prosecutor, maybe you want to make a brief inquiry with her or
3 him.

4 DEPUTY CLERK: It's a woman, juror number 12, Nnenna
5 Lynch.

6 MR. STEIN: Whether she will promise not to discuss
7 the case with her.

8 MS. LAMARQUE: I think, your Honor, it seems to me
9 that your Honor's questioning of the jurors was pretty clear.
10 Maybe I think a general instruction to everyone, don't
11 deliberate until the evidence is in, don't be influenced by
12 anything other than the evidence and what's presented to you in
13 this courtroom. I think you covered all of this in your
14 preliminary instructions, it seems to me, but I'm happy to --

15 MR. STEIN: Judge, I just ask that you make a brief
16 inquiry of this juror.

17 THE COURT: Which one?

18 MR. STEIN: The one who knew the prosecutor who came
19 into the courtroom, not to discuss the case with her or
20 anything.

21 MS. LAMARQUE: I think the only question to be asked
22 is whether that will have any influence on the juror at all,
23 their impartiality, but I think you covered that in your
24 catch-all question about is there any reason --

25 THE COURT: I think will I try to cover it in some

C9JTGIL2

Ryan - cross

1 general instruction.

2 MR. STEIN: Judge, the other thing I wanted to bring
3 up while we're here, I know you will give up a cautionary
4 instruction about not discussing the case, et cetera, et
5 cetera, but I also ask that you add to this, and I think it
6 became part of the basic instructions for juries in state and
7 federal court not to do any research on the internet.

8 THE COURT: Absolutely, and no discussion with friends
9 or family. Very good point.

10 Let's bring the jury in.

11 MS. LAMARQUE: Your Honor, on a scheduling note, I
12 wanted to let the Court know, because Jasmine had to be
13 returned to the facility where she is staying because of the
14 one-day adjournment, we weren't able to keep her overnight,
15 she's going to be available for testimony first thing Monday
16 morning. We had to get permission from the facility to get her
17 out again because she's in a full 24-hour --

18 THE COURT: She went back?

19 MS. LAMARQUE: We were not able to keep her overnight.

20 THE COURT: One of the reasons we started the trial
21 today is to avoid having her have to go back.

22 MS. LAMARQUE: No, your Honor, the facility said we
23 could not keep her overnight.

24 THE COURT: I didn't know anything about this.

25 MS. LAMARQUE: Your Honor, we were told about the

C9JTGIL2

Ryan - cross

1 adjournment in court that morning and we learned about it after
2 court that night while we were trying to change --

3 THE COURT: Can you fill the day tomorrow?

4 MS. LAMARQUE: We could fill I would say 70 percent of
5 the day tomorrow with Special Agent Conolly. I greatly --

6 THE COURT: Look, there was a very strong suggestion
7 from Mr. Stein to have this whole trial put over until a time
8 when we were clear of me and my travels or Jewish holidays. I
9 was told that it would be beneficial to go ahead with the trial
10 so that she would not have to go back and forth to Baltimore.
11 Am I told now she has gone back to Baltimore?

12 MS. LAMARQUE: Your Honor, I'm sorry if that was a
13 misunderstanding. I greatly apologize. We did not mean to
14 represent to you that we could start -- what we represented was
15 if we started right away she didn't have to go back to
16 Baltimore, but due to the one-day adjournment, we had to send
17 her back because --

18 THE COURT: I didn't know you were sending her back,
19 and you should have told me.

20 MS. LAMARQUE: Your Honor, I apologize, but we're --

21 THE COURT: You'll have to fill tomorrow. Even if you
22 have to get her back -- we have to use these days. It's a very
23 short trial. Now if you have to bring her -- she can come up
24 in the morning. I'm saying you will -- you must fill the day
25 tomorrow. And if she has to come back, Maryland is a short

C9JTGIL2

Ryan - cross

1 distance from New York, and she can come up. And if you need a
2 Court order to that effect, I will do it.

3 MS. LAMARQUE: I don't think that we need a Court
4 order, your Honor, it's a matter of supervision for her in
5 terms of getting a social worker to be able to travel with her.

6 THE COURT: Let's not waste any more time.

7 MS. LAMARQUE: Your Honor, the problem is -- please
8 let the Court give me a moment. I want you to appreciate our
9 situation here. If we bring her up for Thursday, she is only
10 going to be on the stand at most for an hour or two, and we
11 have to be liable for her for 72 hours because we're off on
12 Friday. We're not trying to waste time, but we're in a very
13 difficult situation here we really ask for the Court's
14 indulgence at this point. We can't be liable for --

15 THE COURT: OK, let's go. But those things that came
16 up about cousins and observing, we're not going to spend a lot
17 of time on that.

18 MS. LAMARQUE: Agreed.

19 MR. STEIN: I said it should be brief, Judge.

20 (Continued on next page)

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C9JTGIL2

Ryan - cross

1 (In open court, jury present)

2 THE COURT: That was a longer recess than I
3 anticipated, but I had to talk to the lawyers.

4 Let me say if someone comes in the courtroom as a
5 spectator that is somebody that you know, I assume that is no
6 problem for the juror. People do come in, it's open to the
7 public, and we can't ask if the jurors are acquainted with
8 everyone that might come in. So I assume that somebody who
9 comes in incidentally as a spectator really can have no affect
10 on our jurors.

11 Secondly, if you discover during your time together
12 that you are acquainted or even have some relation to each
13 other, why, you simply have to recognize that you are still --
14 each one of you are independent jurors and you are required to
15 have your independent, individual participation in the case.
16 And that's all I need to say on that.

17 Let's go with the next witness.

18 MS. GREENBERG: We were still on cross-examination,
19 your Honor.

20 THE COURT: Oh, of course, we hadn't finished that.
21 I'm sorry.

22 BY MR. STEIN:

23 Q. Detective Ryan, I think where we left off at the break was
24 you were at the door, so to speak?

25 A. Right.

C9JTGIL2

Ryan - cross

1 Q. So you said words to the effect of "Police, don't move,"
2 correct?

3 A. Right.

4 Q. As you were approaching my client, he was, I think to use
5 your word, compliant at that point?

6 A. Yes.

7 Q. And he put his hand on the door?

8 A. Right.

9 Q. And you started the process of handcuffing him, and there
10 was a struggle?

11 A. Right.

12 Q. And you testified as a result of that you were injured and
13 the jacket that Mr. Gilliam was wearing was torn, correct?

14 A. That's correct.

15 Q. And approximately how long -- withdrawn.

16 There came a time very soon after that where
17 Mr. Gilliam was actually arrested and placed in handcuffs and
18 in custody, correct?

19 A. Yes.

20 Q. And about how long from that point when he was arrested
21 were you at the scene at this building?

22 A. Could you ask it again?

23 Q. How long approximately were you there once he had been
24 handcuffed and arrested?

25 A. Me personally?

C9JTGIL2

Ryan - cross

1 Q. Yes.

2 A. I left with the victim shortly after that, maybe five
3 minutes.

4 Q. When you left the scene, about how many police officers of
5 any kind were there?

6 A. At the scene?

7 Q. Excuse me, law enforcement agents of any kind.

8 A. I would say probably in the ballpark of twelve.

9 Q. And were any of them federal agents?

10 A. Yes.

11 Q. And was one of them the case agent, Brian Conolly?

12 A. Yes, it was.

13 Q. And were all of you up on the floor where this happened?

14 A. I don't believe every single law enforcement agent was on
15 that floor. I'm not really sure. It was hectic when it was
16 happening, so I'm not sure where everyone was.

17 Q. Did there come a time before you left, within minutes or so
18 to go to the precinct, that you went into the apartment, the
19 door of which there was this struggle?

20 A. I did not enter the apartment.

21 Q. Did you see any police offices go into that apartment?

22 A. Yes.

23 Q. Who was that?

24 A. There was members of my field team. The detective who was
25 able to free the door was Detective Joe Panico (ph), Detective

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Ryan - cross

1 Damian Dragar (ph), and I'm not sure, there was a lot of people
2 and a lot of commotion.

3 Q. How about Brian Conolly, did you see him go into the
4 apartment?

5 A. I don't recall seeing him up there.

6 Q. So you don't have to head count, but could you estimate
7 approximately how many police officers of everybody who was
8 there did you see go into the apartment?

9 A. I would say four to five.

10 Q. And do you have any idea how long they were there for, or
11 you left?

12 A. I left the scene.

13 Q. And you did not yourself go into the apartment?

14 A. No.

15 Q. Was there anybody at the apartment?

16 A. As far as?

17 Q. Anybody who had been in the apartment --

18 MS. GREENBERG: Objection.

19 Q. -- when this struggle happened?

20 A. I don't know.

21 Q. You don't know if there were any of the tenants or
22 residents of that apartment inside the apartment?

23 MS. GREENBERG: Objection.

24 THE COURT: Overruled.

25 MS. GREENBERG: Objection, speculation, calls for

C9JTGIL2

Ryan - cross

1 speculation.

2 THE COURT: Please.

3 A. I don't recall if there was anybody in that apartment or
4 not. I never made my way into the apartment. I was on the
5 ground, and when I got freed I stayed out of the apartment,
6 stayed in the hallway.

7 Q. Did you have a conversation anywhere, inside or in the
8 hallway, with anybody who had been in that apartment?

9 MS. GREENBERG: Objection, hearsay.

10 THE COURT: We're just asking if he had the
11 conversation.

12 A. I don't recall having a conversation with anybody at that
13 apartment, no. I know after the door in front there was a
14 female that opened the door and asked what was going on, and
15 she was told to just shut the door, but I don't remember
16 anybody else being on the floor at the door.

17 Q. So you don't know who that person was?

18 A. No.

19 Q. And within a few minutes or so you went to the precinct?

20 A. Right.

21 Q. That's the 42nd Precinct?

22 A. That's right.

23 Q. And the jacket that you have testified about and the
24 pictures, did you take a jacket with you?

25 A. I did not.

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Ryan - cross

1 Q. So some other law enforcement agent, as far as you know,
2 took the jacket to the precinct, right?

3 A. Right.

4 Q. And there came a time at some point where you took some
5 pictures of the jacket?

6 A. Right.

7 Q. With probably your phone?

8 A. That's correct.

9 Q. And what is vouchering?

10 A. Vouchering is when you take an item and you take it into
11 custody, NYPD custody.

12 Q. For perhaps as evidence?

13 A. Right.

14 Q. So to your knowledge, was the jacket vouchered as evidence
15 in this case?

16 A. I don't believe so.

17 Q. Do you know what was done with the jacket?

18 A. I do not. I went to the hospital.

19 Q. Did you ever see the jacket again?

20 A. No.

21 Q. So you don't know whether the jacket was thrown away or
22 what happened to it?

23 A. I don't know what happened to the jacket.

24 Q. There's actually a document that's prepared when property
25 is vouchered for some reason, correct?

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Ryan - cross

1 A. Right. A property clerk invoice.

2 Q. And have you ever seen, in connection with this case, a
3 property clerk's invoice for the jacket?

4 A. No, I have not.

5 MR. STEIN: I have no further questions.

6 THE COURT: Any redirect?

7 MS. GREENBERG: No, your Honor.

8 THE COURT: You may step down, thank you.

9 Next witness.

10 MR. STEIN: Judge, I have an application at this
11 point.

12 THE COURT: OK.

13 MR. STEIN: I have a stipulation that's been signed by
14 one of the prosecutors. I would like to offer it into evidence
15 and read it to the jury.

16 THE COURT: Fine, go ahead.

17 (Defendant's Exhibit 1 received in evidence)

18 MR. STEIN: I don't know, Judge, if you want to tell
19 them what a stipulation might be.

20 THE COURT: A stipulation is an agreement as to what
21 certain evidence is or certain facts are. That's what that is.
22 All right.

23 MR. STEIN: This is marked as Defendant's Exhibit 1,
24 Judge.

25 It is hereby agreed between the parties in the above-

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1 captioned matter that if called to testify, a representative of
2 the state of Maryland Department of Public Safety would state
3 that:

4 1. In December of 2011, the defendant, Jabar Gilliam,
5 was on post-release supervision from an unrelated criminal
6 conviction in the State of Maryland.

7 2. Mr. Gilliam was not permitted to leave the State
8 of Maryland without authorization.

9 3. Mr. Gilliam did not have authorization to leave
10 the State of Maryland.

11 And it's signed by myself and Ms. Greenberg.

12 THE COURT: Very good.

13 Is there a next witness?

14 MS. GREENBERG: Your Honor, we also have two
15 stipulations to read into evidence.

16 THE COURT: OK.

17 MS. GREENBERG: Your Honor, we offer into evidence
18 Government Exhibit 191, stipulation as to telephone records.
19 The stipulation reads:

20 It is hereby stipulated and agreed by and between the
21 United States of America be Preet Bharara, United States
22 Attorney for the Southern District of New York, Kristy J.
23 Greenberg and Natalie LaMarque, Assistant United States
24 Attorneys, of counsel, and Jabar Gilliam, a/k/a Jabal Gilliam
25 a/k/a Jamal Gilliam a/k/a JB, the defendant, by and with the

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1 consent of his attorney, Joel M. Stein, Esq., that:

2 1. If called to testify, a custodian of records from
3 Verizon would testify as follows:

4 a. He or she is familiar with the record keeping
5 practice of Verizon.

6 b. Government Exhibit 151 includes true and correct
7 telephone records, including subscriber information and records
8 of incoming and outgoing calls for the land line assigned
9 telephone number 718-617-0614.

10 c. The information contained in Government
11 Exhibit 151 was recorded by Verizon at or near the time that
12 the telephone activity took place, was kept in the regular
13 course of Verizon's business activity, and was relied on as a
14 regular practice of Verizon.

15 2. If called to testify, a custodian of records of
16 Sprint would testify as follows:

17 a. He or she is familiar with the record keeping
18 practices of Sprint.

19 b. Government Exhibit 147 includes true and correct
20 telephone records, including subscriber information and records
21 of incoming and outgoing calls for the cellular telephone
22 number assigned telephone number 301-992-0685.

23 C. The information contained in Government
24 Exhibit 147 was recorded by Sprint at or near the time that the
25 telephone activity took place, was kept in the regular course

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1 of Sprint's business activity, and was relied on as a regular
2 practice of Sprint.

3 d. Government Exhibit 148 includes true and correct
4 telephone records, including cell site information and records
5 of incoming and outgoing calls for the cellular telephone
6 assigned telephone number 301-992-0685.

7 E. The information contained in Government
8 Exhibit 148 was recorded by Sprint at or near the time that the
9 telephone activity took place, and was kept in the regular
10 course of Sprint's business activity and was relied on as a
11 regular practice of Sprint.

12 f. Government Exhibit 149 includes true and correct
13 telephone records, including subscriber information and records
14 of incoming and outgoing calls for the cellular telephone
15 assigned telephone number 646-410-8570.

16 g. The information contained in Government
17 Exhibit 149 was recorded by Sprint at or near the time that the
18 telephone activity took place, was kept in the regular course
19 of Sprint's business activity, and was relied on as a regular
20 practice of Sprint.

21 It is further stipulated and agreed that Government
22 Exhibits 147, 148, 149, and 151 and this stipulation may be
23 received in evidence as government exhibits at trial.

24 It's dated September 11, 2012, New York, New York,
25 signed by myself and by Mr. Stein.

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1 The government would offer this exhibit, this
2 stipulation as an exhibit and the other exhibits referenced
3 therein, 147, 148, 149, and 151 into evidence.

4 THE COURT: Proceed.

5 (Government's Exhibits 147, 148, 149, 151 and 191
6 received in evidence)

7 THE COURT: What did the jury learn from what you
8 read?

9 MS. GREENBERG: The jury will learn from what we read
10 in connection with FBI Agent Conolly's testimony. He will be
11 relying on these documents and explaining their import.

12 THE COURT: OK.

13 MS. GREENBERG: The next stipulation --

14 THE COURT: Please don't read these formal
15 stipulations. If there's something that tells the jury
16 something in a stipulation, fine, but as far as reading a lot
17 of formality about admissibility of evidence, the jury doesn't
18 have to take time to hear that.

19 Do you have any other evidence this afternoon which
20 the jury will learn something from?

21 MS. GREENBERG: Your Honor, if you don't -- I'm happy
22 not to read the stipulation, however I offer this next
23 stipulation. Again it's Government Exhibit 192.

24 THE COURT: Is it about admissibility of documents?

25 MS. GREENBERG: Yes.

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1 THE COURT: I will receive it and we don't have to
2 read it to the jury.

3 (Government's Exhibit 192 received in evidence)

4 THE COURT: Is there another witness?

5 MS. GREENBERG: Yes, your Honor.

6 MR. STEIN: Judge, I haven't memorized what 192 is.
7 Could Ms. Greenberg tell us what 192 refers to without reading
8 the stipulation itself?

9 THE COURT: We'll talk about it later. Let's start a
10 witness and let's have something that will tell the jury
11 something.

12 Who is the next witness?

13 MS. GREENBERG: The government calls FBI Special Agent
14 Brian Conolly.

15 BRIAN CONOLLY,

16 called as a witness by the Government,

17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. GREENBERG:

20 Q. Good afternoon. Where do you work?

21 A. The Federal Bureau of Investigation.

22 Q. Is the Federal Bureau of Investigation sometime referred to
23 as the FBI?

24 A. Yes.

25 Q. How long have you worked with the Federal Bureau of

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Conolly - direct

1 Investigation?

2 A. Eight years.

3 Q. What is your current title with the FBI?

4 A. Special agent.

5 Q. Are you assigned to a particular unit or group with the
6 FBI?

7 A. Yes, I work in the Crimes Against Children Unit.

8 Q. And what are your duties and responsibilities in the Crimes
9 Against Children Unit?

10 A. As an agent we investigate crimes against children to
11 include abductions, kidnappings and child prostitution.

12 Q. And what kinds of investigatory work do you do in your role
13 as a special agent?

14 A. Our investigative tasks include a number of things,
15 subpoenaing records, testifying in court, interviewing subjects
16 and witnesses, obtaining search warrants, evaluating evidence,
17 and reviewing important facts in cases.

18 Q. Were those your duties in December 2011?

19 A. Yes.

20 Q. How long have you been assigned to the Crimes Against
21 Children Unit?

22 A. One year.

23 Q. And what did you do prior to your current assignment?

24 A. I worked in the White Collar Crime Division of the New York
25 Office of the FBI focusing on health care fraud investigations.

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Conolly - direct

1 Q. How long were you in that unit?

2 A. Seven years.

3 Q. How many investigations have you participated in?

4 A. Maybe 20 or 30 that I have played an active investigative
5 role.

6 Q. And how many arrests have you made in which you played an
7 active investigative role?

8 A. 15 to 20.

9 Q. How many other arrests have you participated in?

10 A. 80 plus.

11 Q. What did you do prior to working for the Health Care Fraud
12 Unit in the FBI?

13 A. Prior to being in the FBI I was a CPA, Certified Public
14 Accountant.

15 Q. How long were you a CPA?

16 A. Six years.

17 Q. Now turning your attention to December 2nd, 2011, what did
18 you do that day?

19 A. We assisted -- I obviously got a call from the Maryland
20 State Police in regards to a missing 16-year-old girl.

21 THE COURT: You have to speak a little louder, if you
22 could.

23 THE WITNESS: Sure.

24 Q. What steps did you take to investigate that missing girl?

25 A. We received a call from the Maryland State Police regarding

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Conolly - direct

1 the girl that was missing. I then spoke to the trooper there
2 who advised that the identity of the girl.

3 MR. STEIN: Objection.

4 THE COURT: Well, I'll tell you what, we had this
5 problem coming up, but really this is all part of his
6 instruction. And if he can't tell what he was told in the
7 course of his instruction, it's a little bit difficult. So
8 I'll allow it.

9 Go ahead, what happened?

10 THE WITNESS: In speaking to the trooper, he provided
11 the identity and photographs of the missing girl, Jasmine, and
12 the identity and information on --

13 MR. STEIN: Objection as to any other persons, Judge.

14 THE COURT: Overruled.

15 THE WITNESS: -- on the defendant who was believed to
16 be with Jasmine at the time.

17 BY MS. GREENBERG:

18 Q. And what steps did you take to try to find Jasmine and the
19 defendant?

20 A. I called the NYPD vice unit, who we work with on a regular
21 basis, to request their assistance in going up to the Bronx to
22 look for Jasmine. The Maryland trooper had information
23 regarding cell phone location that Jasmine had known to be
24 using that belonged to the defendant that was in the Bronx,
25 some specific locations in the Bronx that we went to.

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Conolly - direct

1 Q. And how were the cell phone -- how was the cell phone
2 information obtained?

3 A. The Maryland state trooper did a request. He provided a
4 request to -- I believe it was Sprint.

5 Q. And what did he obtain as a result of that request?

6 A. It was for tower locations. I'm not sure if it was a GPS
7 request, but it was for locations that the cell phone was
8 active in real-time information.

9 Q. And what cell phone was the Maryland state police tracking
10 and receiving information about at that time?

11 A. It was the cell phone that belonged to the defendant, I
12 believe the number was 301-992-0685.

13 Q. I would like to show you what has been admitted into
14 evidence as part of Stipulation 191 as Government Exhibit 147.

15 MS. GREENBERG: Your Honor, may I approach?

16 THE COURT: Right.

17 Q. Special Agent Conolly, do you recognize this document?

18 A. Yes, this is the records for the cellular telephone that I
19 mentioned regarding the defendant.

20 Q. How did you come to receive these documents?

21 A. These were obtained through a subpoena.

22 Q. Was that a subpoena -- who issued that subpoena?

23 A. Yeah, I believe I issued it.

24 Q. Ms. Co, if you could please publish this to the jury. This
25 is admitted into evidence.

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Conolly - direct

1 THE COURT: Now what is being published to the jury?

2 MS. GREENBERG: It's Government Exhibit 147. These
3 are Sprint records that Special Agent Conolly testified that he
4 subpoenaed for the defendant's cell phone number.

5 THE COURT: What do they show?

6 What are they supposed to show?

7 BY MS. GREENBERG:

8 Q. Special Agent Conolly, could you state what information on
9 this document is in the subscriber information?

10 A. Yes, this document shows that the subscriber for the cell
11 phone that I mentioned is Jabar Gilliam.

12 Q. Now after the Maryland State Police received the
13 defendant's information from that cell phone number, what
14 happened next?

15 A. We went to the vicinity of the Bronx where it was being
16 actively --

17 THE COURT: You went where?

18 A. We went to the Bronx, New York, the area that the phone was
19 showing the location, and pursuant to further information
20 provided by Maryland State Police, he had information that a
21 specific address was associated with the phone number, and that
22 was the 1140 Jackson Avenue address in the Bronx.

23 Q. And what did you do upon learning about the location of
24 1140 Jackson Avenue?

25 A. I went with the NYPD to request access to that residence to

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Conolly - direct

1 look for the missing female.

2 Q. And did you go to 1140 Jackson Avenue?

3 A. Yes.

4 Q. And what happened upon your arriving at 1140 Jackson
5 Avenue?

6 A. NYPD made initial contact, they knocked on the door. I
7 don't recall who answered. I was not at the front, so I didn't
8 interview anyone at the front of the door. I understand they
9 asked for consent to be let in and spoke to someone to be let
10 inside.

11 THE COURT: You're really running your words together
12 and it's hard to understand you. Take it easy.

13 THE WITNESS: Sure.

14 A. We went inside. A number of law enforcement agents went
15 inside and spoke to the individuals that were in the residence,
16 advising them they were looking for Jasmine, a missing
17 16-year-old girl. And the interior of the residence was --
18 there was access to the stairwell to all three floors.

19 Q. Did you speak with anyone at 1140 Jackson?

20 A. Yes.

21 Q. With whom did you speak?

22 A. I spoke with a female who identified herself as the
23 defendant's mother.

24 Q. Now what, if anything, did you find at 1140 Jackson Avenue?

25 A. In regards to?

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Conolly - direct

1 Q. Were you able to locate anyone?

2 A. Jasmine was not there and the defendant was not there.

3 Q. What happened after you left 1140 Jackson Avenue?

4 A. We continued to drive around the area because the phone was
5 actively being utilized in that area around that residence,
6 1140 Jackson Avenue. I was with the police department
7 detectives. A call came over the radio that there was a
8 possible positive ID on --

9 MR. STEIN: Judge, I object to what came over the
10 radio.

11 THE COURT: Overruled.

12 A. A possible positive ID on Jasmine and the defendant several
13 blocks away from 1140 Jackson Avenue.

14 Q. And what was the follow up to that?

15 A. We then went to that location. I went inside with several
16 detectives that I was with. We could hear commotion occurring
17 in the hallways, so we went up the stairs to the third floor,
18 and when we turned the corner we saw Jasmine was standing close
19 to the stairwell with Detective Muckenthaler, and at the end of
20 the hall was Detective Ryan. His foot was caught in the door
21 and he was laying on his back clearly in pain, and several
22 detectives were trying to open the door.

23 Q. And what happened after that?

24 A. One of the detectives was throwing his shoulder into the
25 door and was able to open it. The defendant then, who was on

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Conolly - direct

1 the other side of that door, I was probably --

2 THE COURT: The defendant then what was?

3 THE WITNESS: He was on the other side of the door
4 inside the apartment.

5 A. And there were probably three or four detectives that went
6 in the apartment before I did, the defendant having his way to
7 probably the middle of the living room.

8 THE COURT: The defendant having what?

9 THE WITNESS: Ran from the door to the middle of the
10 living room before police put their hands on him and put him in
11 handcuffs.

12 Q. And did you see inside the apartment?

13 A. Yes.

14 Q. Can you describe the apartment?

15 A. Yes, it was at the end of the hallway on the third floor.
16 It was -- to the left was the entrance. As you step in, the
17 living room was on the right. It was an average-sized living
18 room with a kitchen off to the left and there was at least one
19 bedroom in the back. I did not go back into the bedroom area.

20 Q. Now you testified -- who did you see in the apartment?

21 A. The defendant was in handcuffs by NYPD detectives, and
22 there was two other adult males in the apartment.

23 Q. And do you see the male that was in handcuffs that day in
24 the courtroom today?

25 A. Yes.

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Conolly - direct

1 Q. And can you identify him by describing an article of
2 clothing that he is wearing?

3 A. Yes, he's wearing a dark suit, light shirt unbuttoned at
4 the top with no tie.

5 MS. GREENBERG: Your Honor, let the record reflect
6 that Special Agent Conolly has identified the defendant.

7 THE COURT: All right. We'll recess now until
8 10 o'clock tomorrow. 10 o'clock tomorrow. And one thing I
9 didn't mention, but I think it's probably obvious, please to
10 not discuss the case with anybody overnight, family, friends.
11 If they ask you about it, just say you're on a case, but have
12 no discussion with anybody to again to preserve jury integrity.

13 MR. STEIN: Judge, excuse me, I request about the
14 internet.

15 THE COURT: What?

16 MR. STEIN: I made a request at side bar about the
17 internet.

18 THE COURT: Oh, I don't know anything about doing
19 research on the internet, but don't try to -- I'm very backward
20 on technology, but please do not try to do any research or get
21 any information or background or anything by any means
22 whatever, please.

23 All right. 10 o'clock tomorrow.

24 (Adjourned to September 20, 2012 at 10:00 a.m.)

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157, 158 and 15931

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